



DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

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Oil Country Tubular Goods from the People's Republic of China: Self-Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

Summary

The Department of Commerce (Commerce) is self-initiating country-wide anti-circumvention inquiries to determine whether imports of welded oil country tubular goods (OCTG) completed in Brunei and the Philippines (collectively, third countries) using inputs manufactured in the People's Republic of China (China) are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on OCTG from China.

DATES: Applicable [insert date of publication in the *Federal Register*]

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein at (202) 482-1391, AD/CVD Operations, Office VI or Justin Enck at (202) 482-1614, Office of Policy, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 2009, Evraz Rocky Mountain Steel, Maverick Tube Corporation, TMK IPSCO, United States Steel Corporation, V&M Star LP, V&M Tubular Corporation of America, Wheatland Tube Corp., and the United Steel, Paper, and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC filed petitions seeking the imposition of antidumping and countervailing duties on imports of OCTG

from China.¹ Following Commerce's affirmative determinations of dumping and countervailable subsidies,² and the U.S. International Trade Commission's (ITC) finding of material injury,³ Commerce issued AD and CVD orders on imports of OCTG from China.⁴

Section 781(b)(1) of the Tariff Act of 1930, as amended (the Act), provides that Commerce may find circumvention of an AD or CVD order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting anti-circumvention inquiries, under section 781(b)(1) of the Act, Commerce relies on the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping or countervailing duty order or finding, (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or merchandise which is produced in the foreign country that is subject to the order, (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant, (D) the value of the merchandise produced in the foreign country to which the AD or CVD order applies is a significant portion of the total value of the merchandise exported to the United States, and (E) the administering authority determines that action is appropriate to prevent evasion of such order or finding.

In determining whether or not the process of assembly or completion in a third country is

¹ See *Oil Country Tubular Goods from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 74 FR 20671 (May 5, 2009); *Certain Oil Country Tubular Goods from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 74 FR 20678 (May 5, 2009).

² See *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010); and *Certain Oil Country Tubular Goods from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009).

³ See *Certain Oil Country Tubular Goods from the People's Republic of China; Determination*, 75 FR 28058 (May 19, 2010) and *Certain Oil Country Tubular Goods from the People's Republic of China*, 75 FR 3248 (January 20, 2010); see also *Certain Oil Country Tubular Goods from China*, Inv. No. 731-TA-1159, USITC Pub. 4152 (May 2010) (Final) and *Certain Oil Country Tubular Goods from China*, Inv. No. 701-TA-463, USITC Pub. 4124 (January 2010) (Final).

⁴ See *Certain Oil Country Tubular Goods from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 75 FR 28551 (May 21, 2010) (*AD Order*); *Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 3203 (January 20, 2010) (*CVD Order*) (collectively, *Orders*).

minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider: (A) the level of investment in the foreign country, (B) the level of research and development in the foreign country, (C) the nature of the production process in the foreign country, (D) the extent of production facilities in the foreign country, and (E) whether or not the value of processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States. However, no single factor, by itself, controls Commerce's determination of whether the process of assembly or completion in a third country is minor or insignificant.⁵ Accordingly, it is Commerce's practice to evaluate each of these five factors as they exist in the third country, depending on the totality of the circumstances of the particular anti-circumvention inquiry.⁶

Furthermore, section 781(b)(3) of the Act sets forth additional factors to consider in determining whether to include merchandise assembled or completed in a third country within the scope of an AD and/or CVD order. Specifically, Commerce shall take into account such factors as: (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise is affiliated with the person who, in the third country, uses the merchandise to complete or assemble the merchandise which is subsequently imported into the United States; and (C) whether imports of the merchandise into the third country have increased after the initiation of the investigation that resulted in the issuance of such order or finding.

Scope of the Orders

The products covered by the *Orders* are certain hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish. For a full description of the scope of these orders, *see* the "Scope of the Orders," in the Appendix to this notice.

⁵ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. No. 103-316 (1994) at 893.

⁶ See *Uncovered Innerspring Units from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty Order*, 83 FR 65626 (December 21, 2018), and accompanying Issues and Decision Memorandum at 4.

Merchandise Subject to the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover welded OCTG completed in the third countries using inputs manufactured in China and subsequently exported from the third countries to the United States.

Initiation of Anti-Circumvention Inquiries

Through its regular monitoring of trade data, Commerce has gathered information indicating that hot-rolled steel sheet and strip from China may be exported to Brunei and the Philippines for minor processing, and then exported to the United States as welded OCTG, in circumvention of the *Orders*. Based on this information, we determine, pursuant to section 781(b) of the Act and 19 CFR 351.225(b) and (h), that self-initiation of anti-circumvention inquiries is warranted to determine whether certain imports of welded OCTG, completed in Brunei and the Philippines using inputs manufactured in China, are circumventing the *Orders*. For a full discussion of the basis for our decision to initiate these anti-circumvention inquiries, *see* the Anti-Circumvention Initiation Memo.⁷

As explained in the Anti-Circumvention Initiation Memo, the available information warrants initiating these anti-circumvention inquiries on a country-wide basis. Commerce has taken this approach in prior anti-circumvention inquiries, where the facts warranted.⁸

Consistent with the approach in the prior anti-circumvention inquiries that were initiated on a country-wide basis, Commerce intends to issue questionnaires to solicit information from

⁷ See Memorandum, “Oil Country Tubular Goods from the People’s Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders” (Anti-Circumvention Initiation Memo). This memo is a public document that is dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS.

⁸ See, e.g., *Stainless Steel Sheet and Strip From the People’s Republic of China: Initiation of Anti-Circumvention and Scope Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 85 FR 29401, 29402 (May 15, 2020); *see also* *Certain Corrosion-Resistant Steel Products from the Republic of Korea and Taiwan: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 37785 (August 2, 2018); *Carbon Steel Butt-Weld Pipe Fittings from the People’s Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order*, 82 FR 40556, 40560 (August 25, 2017) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted); *Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 81 FR 79454, 79458 (November 14, 2016) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted).

producers and exporters in each of the third countries concerning their shipments of OCTG to the United States and the origin of any imported inputs being processed into OCTG. A company's failure to respond completely to Commerce's requests for information may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

Notification to Interested Parties

In accordance with 19 CFR 351.225(b), Commerce determines that available information warrants initiating these anti-circumvention inquiries to determine whether certain imports of welded OCTG, completed in Brunei and the Philippines using inputs manufactured in China, are circumventing the *Orders*. Accordingly, Commerce hereby notifies all parties on Commerce's scope service list of the initiation of these anti-circumvention inquiries. In addition, in accordance with 19 CFR 351.225(f)(1)(i) and (ii), in this notice of initiation issued under 19 CFR 351.225(b), we have included a description of the product that is the subject of these anti-circumvention inquiries (*i.e.*, OCTG completed in the third countries using inputs manufactured in China), and an explanation of the reasons for Commerce's decision to initiate these anti-circumvention inquiries, as provided above. Commerce will establish a schedule for questionnaires and comments on the issues in these inquiries.

In accordance with 19 CFR 351.225(l)(2), if Commerce issues preliminary affirmative determinations, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated antidumping and countervailing duties, at the applicable rate, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of the inquiries. Commerce intends to issue its final determinations within 300 days of the date of publication of this initiation, in accordance with section 781(f) of the Act and 19 CFR 351.225(f)(5).

This notice is published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: November 3, 2020

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

Appendix

Scope of the *Orders*

The scope of these *Orders* consists of certain OCTG, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.*, whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the *Orders* also covers OCTG coupling stock. Excluded from the scope of the *Orders* are casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise covered by the *Orders* is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The OCTG coupling stock covered by the *Orders* may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, and 7304.59.80.80.

The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the *Orders* is dispositive.

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